



PTO/SB/64 (05-03)

Approved for use through 04/30/2003. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

46055/MOGUSPCT

First named inventor: Stuiver

Application No.: 09/581,331

Art Unit: 1635

Filed: July 21, 2000

Examiner: Lacourciere, Karen'

Title: Constitutive Plant Promoters

Attention: Office of Petitions

**Mail Stop Petition**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 308-6916

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**OFFICE OF PETITIONS**

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a  
notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the  
expiration date of the period set for reply in the Office notice or action plus an extensions of time  
actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications  
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☐ Small entity-fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1300 (37 CFR 1.17(m))

**2. Reply and/or fee****A. The reply and/or fee to the above-noted Office action in**the form of a Response and Amendment (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_  
☒ is enclosed herewith.

**B. The issue fee of \$ \_\_\_\_\_**

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- ☐ has been paid previously on \_\_\_\_\_  
☐ is enclosed herewith.

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[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

7/11/03  
Date

Mary Kakefuda  
Signature

Telephone Number: 919-765-5071

Mary Kakefuda, Reg. No. 39,245  
Typed or printed name  
3054 Cornwallis Road  
Address

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other: Return Postcard

Research Triangle Park, NC 27709  
Address

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## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

7/11/03  
Date

Melissa Hardy  
Signature

Melissa Hardy

Type or printed name of person signing certificate



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF  
STUIVER ET AL.

GROUP ART UNIT: 1635

APPLICATION NO: 09/581,331

EXAMINER: Lacourciere, Karen A.

FILED: 21 July 2000

FOR: CONSTITUTIVE PLANT PROMOTERS

Attention: Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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STATEMENT ESTABLISHING UNINTENTIONAL DELAY

Sir:

This statement is filed in connection with a Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR § 1.137(b) which is in response to the Notice of Abandonment dated June 30, 2003.

Attorney for Applicants hereby states that the entire delay in filing the required reply from the due date of the required reply of December 4, 2002 until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional for the reasons given below.

The Office Communication dated November 4, 2002, requested a corrected version of the Response and Amendments because the amended claims filed on 08-19-2002 did not comply with the requirements of 37 CFR 1.121(c). The Office Communication due date of December 4, 2002 was unintentionally not docketed by the receiving office of Syngenta Crop Protection, Inc. in Wilmington, DE. Therefore, a response providing the corrected amendments was not timely filed.

Submitted herewith is a corrected version of the Amendment originally filed August 19, 2002, as requested in the Office Action of November 4, 2002.

No fee is believed due, however please charge any fees which may be required, to Account No. 50-1744 in the name of Syngenta.

Respectfully submitted,

Syngenta Biotechnology, Inc.  
Patent Department  
P.O. Box 12257  
Research Triangle Park, NC 27709-2257

Mary Kakefuda  
Mary Kakefuda  
Attorney for Applicants  
Reg. No. 39,245

Date:

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